

NUS-214
T. BOWMAN

MAY 25 2006

Patrick M. Rahe
Hogan & Hartson L.L.P.
555 Thirteenth St., N.W.
Washington, DC 20004-1109

Re: Confidentiality Determination/Michelin North America, Inc. - EA05-011
(Country Coach)

Dear Mr. Rahe:

This is in response to your May 18, 2006 letter requesting confidential treatment for materials submitted by Michelin North America, Inc. (Michelin) and enclosed with your letter. You state that the materials were provided voluntarily by Michelin in response to a "peer" information request in connection with the above investigation. Specifically, you request permanent confidential treatment for information contained on a CD, labeled as Attachment A.

Your letter and accompanying certificate indicate that the information provided is confidential and proprietary data that Michelin does not and has not released to the public.

I am granting your request.

While the information provided by Michelin was submitted in response to a formal agency request, the agency's Office of Chief Counsel has taken the position that responses to "peer" information requests are voluntary submissions. The Office of Defects Investigation issues "peer" information requests to manufacturers that are not the target of the current investigation to obtain information on vehicles or equipment items similar to those under investigation. Since Michelin was responding to a peer information request, I have therefore determined that Michelin provided this information voluntarily. Accordingly, I have reviewed your request under the principles set forth in *Critical Mass Energy Project v. Nuclear Regulatory Comm'n*, 975 F.2d 871 (D.C. Cir. 1992).

Under the test set forth in *Critical Mass*, financial or commercial information provided to the government on a voluntary basis is "confidential" for purposes of FOIA Exemption 4 of the Freedom of Information Act if it is the kind of information that would customarily not be released to the public by the submitter. Your letter indicates, and my review has determined, that the documents contained in your submission reveal production volumes, failure reports, and failure rates that Michelin does not customarily release to the public. I am according confidential treatment to all of the information contained in Attachment A.

Subject to the following conditions, this grant of confidential treatment will remain in effect permanently. The information may be disclosed under 49 CFR § 512.22 based upon newly discovered or changed facts, and you must inform the agency of any changed circumstances that may affect the protection of the information (49 CFR § 512.10). If necessary, you will be notified prior to the release of any information under the procedures established by our regulations (49 CFR § 512.22(b)).

Sincerely,

/s/

Otto G. Matheke, III
Senior Attorney

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